

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

SUMMIT CARBON SOLUTIONS, LLC,

Petitioner,

v.

IOWA UTILITIES BOARD, A DIVISION OF
THE DEPARTMENT OF COMMERCE,
STATE OF IOWA,

Respondent,

And

SIERRA CLUB IOWA CHAPTER and
OFFICE OF CONSUMER ADVOCATE,

Intervenors.

Case No. CVCV062900

**MOTION TO ADMIT SUMMARY
JUDGMENT RECORD**

As was discussed at the conclusion of the summary judgment hearing, the Parties to this case compromised on a process between parties who believed briefing and argument, in the nature of an administrative appeal, would be sufficient, and Sierra Club, who had wanted a live evidentiary hearing. Consistent with its initial position, Summit Carbon Solutions (“Summit Carbon”) does not presently intent to call any witnesses.

Summit Carbon does request, however, that the appendices and other attachments the parties entered into the Summary Judgment record be admitted into the trial record. Those materials, which mainly consisted of responses to discovery requests from the Iowa Utilities Board, and more particularly mainly consisted of lists of dockets and whether mailing lists had been requested, are already before the Court. No party has challenged their authenticity or veracity. No party has challenged the accuracy of the lists of dockets – rather the debate when

summary judgment was litigated was the weight to be given to various subsets of the lists, and how the information reflected on the presence or absence of a “procedure” of the Board.

Summit Carbon believes it is appropriate, and there is no compelling reason not to, consider such materials as part of the evidence in this case and allow the parties to brief the import of such evidence in their final post-hearing briefs. Particularly in the absence of a jury, this is simply an efficient way to avoid repeating at the hearing all the same evidence that the parties are already aware of and have already had a chance to address.

Accordingly, Summit Carbon requests that the Court admit into evidence the summary judgment record as if it has been offered at the hearing.

Filed this 27th day of June, 2022.

Respectfully submitted,

By: /s/ Bret A. Dublinske
Bret A. Dublinske (AT0002232)
Brant M. Leonard (AT0010157)
FREDRIKSON & BYRON, P.A.
111 East Grand Avenue, Suite 301
Des Moines, IA 50309
Telephone: (515) 242.8900
Facsimile: 515.242.8950
E-mail: bdublinske@fredlaw.com
E-mail: bleonard@fredlaw.com

**ATTORNEYS FOR SUMMIT CARBON
SOLUTIONS, LLC**

CERTIFICATE OF SERVICE

The undersigned certifies that on the 27th of June, 2022, the foregoing document was electronically filed with the Clerk of Court using the EDMS system which will send a notice of electronic filing to all counsel of record registered with the EDMS system.

/s/ Bret A. Dublinske
Bret A. Dublinske